REMARKS

The Examiner, in the Official Action, has rejected claims 1-12 under 35 USC § 103(a) as being unpatentable over Royer for the reasons set forth in the official action. Applicant respectfully submits that the present invention is totally apart and distinct from the cited reference. First, claim 1 is directed to a method of making an authentication product which includes the step first providing a first product and then applying a plurality of micro discrete image products to the first product. An illustration of this is described in the Applicant's specification at page 8 lines 16-28. As can be seen the micro discrete particles 40 have micro indicia 30. It is these micro discrete image products that are placed onto the fibers 60 of article 48. Thus, it can be seen that the micro discrete particle is separate and distinct from the article to which it is applied. This is in stark contrast to the Royer reference which is directed to a negotiable instrument of having segmented separate members 90A, 90B, 90C, 90D...90J in the form of demarcated spaces that are adapted to be marked for coating purposes, as set forth in the cited reference, column 4, lines 12-16. As also set forth in the Royer reference at column 4, lines 16-18, the segmented members can be embossed with a magnetic ink or other substance capable of receiving a mark. This is contrary to the present invention wherein the discrete microparticles are totally apart and distinct from the product in which they are placed.
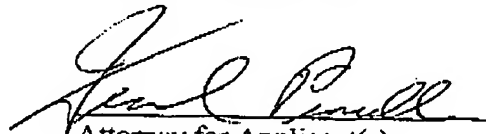
Further, functional limitations, even at the point of novelty, are appropriate and are to be considered in determining patentability, see MPEP 2173.05(g). As set forth therein a functional limitation must be evaluated and considered common just like any limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art and the context in which it is used. A functional limitation is often used in association with an element, ingredient, or step of a process to define a particular capability or purpose that is served by the recited element, ingredient or step. Claim 1 has been amended to clearly state it has no size greater than 20 microns and that it does not detract from the appearance of the article. As can be seen the size of the article does play an important function with regard to the functionality of the micro discrete image products. Thus, it is respectfully submitted that the Royer reference does not teach or suggest the invention as currently set forth in independent claim 1.

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Accordingly, claim 1, for the above reasons, is patentably distinct over the Royer reference. Likewise, dependent claims 2-9, which depend at least ultimately upon independent claim 1, are patentably distinct for the same reasons.

With regard to the second independent claim 10, this is directed to a micro discrete particle having a size no greater than about 20 microns and having a photosensitive layer on which at least a portion of micro image is formed thereon. First, there is not teaching or suggestion of providing a micro discrete particle having the size to which the present invention is directed, nor does it teach the providing photosensitive layer on which an image is formed. As previously discussd, the Royer reference discusses using inks and other materials onto the negotiable instrument. There is no teaching or suggestion of providing a photosensitive layer as taught and claimed by Applicant nor providing of an image of the size to which the present invention is directed.

In view of the foregoing it is respectfully submitted that the claims in their present form are in condition for allowance and such action is respectfully requested.

Respectfully submitted,

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If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.

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